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Atty. Dkt. No. 086142-0629

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Tomotoshi SENOH et al.
Title: SEAT WEIGHT MEASURING DEVICE
Appl. No.: 10/822,706
Filing Date: 4/13/2004
Examiner: Sean Phillip KAYES
Art Unit: 2833
Confirmation Number: 2928

REPLY BRIEF

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Under the provisions of 37 CFR § 41.41, Appellants submit this Reply Brief on Appeal to respond to the Examiner's Answer mailed on March 17, 2008.

The Examiner maintains that claims 1-2, 4-8, and 10 are anticipated by U.S. Patent 6,448,512 ("Cooper"), claims 3 and 9 are unpatentable over Cooper in view of U.S. Patent 6,323,444 ("Aoki '444"), and claims 12 and 13 are unpatentable over Cooper in view of U.S. patent 6,069,325 ("Aoki '325"). The Examiner is incorrect, because Cooper does not disclose, teach or suggest either "*expressly or inherently*," each and every element of claim 1 and claim 7.

I. Cooper does not teach or suggest all the features of claim 7

Claim 7 recites, among other things, "a base having two side plates" and "an arm rotatably supported by and interdisposed between the side plates of the base via a base pin." Cooper does not teach or suggest this combination of features because the lever 70 of Cooper is not supported by both mounts 60 by a pin. Instead, the lever 70 is merely supported by one

mount via the pin 66. The Examiner's Answer states that the lever 70 of Cooper is supported by the left side plate by a pin 66 and by the right side plate by connection through load surface 44. (Paragraph 17 of the Examiner's Answer.) However, the claim language states that the arm is "rotatably support by and interdisposed between the side plates of the base via a base pin." Thus, the arm is supported by the side plates of the base via a base pin. The admission that the lever 70 is supported by the right side plate by connection through the load surface 44, and not the pin 66, confirms that Cooper fails to disclose the claimed invention. The analysis regarding to what is meant by "supported by the side plates" found in paragraph 17 of the Examiner's Answer does not negate the fact that the arm must be supported by the side plates via a base pin, which Cooper does not teach or suggest. Accordingly, the lever 70 of Cooper cannot be considered to be the arm of claim 7 because the lever 70 is not rotatably supported by two side plates of the base via a base pin. No other element of Cooper can be interpreted to be the arm of claim 7. Thus, Cooper does not teach or suggest the arm of claim 7, and the rejection should be withdrawn.

Claim 7 also recites "a pin bracket in communication with the arm via a bracket pin and further adapted to be in communication with the seat, wherein the bracket pin is partially located between the two side plates of the base." Cooper does not teach or suggest this combination of features.

As the outset, it is noted that the grounds of rejection of claim 7 has been improperly altered. According to the Final rejection mailed on May 25, 2007 (hereinafter referred to as "the 5/25/2007 Office Action"), the vehicle seat frame 42 of Cooper was considered to be the seat of claim 7, the bushing of 92 of Cooper was considered to be the pin bracket of claim 7, and the support pin 46 of Cooper was considered to be the bracket pin of claim 7. (Paragraph 8 of the 5/25/2007 Office Action.) In the Examiner's Answer, the seat guide track 41 and the seat 41 are now considered to be the seat of claim 7, the bushing 92 and the seat frame 42 are now considered to be the pin bracket of claim 7, and the support pin 46 is still considered to be the pin bracket of claim 7. (Paragraph 8 of the Examiner's Answer.)

This new ground of rejection should be withdrawn because Cooper does not teach or suggest all the features of claim 7. Claim 7 requires that the pin bracket be in communication with the arm via the bracket pin. Even if bushing 92 and seat frame 42 of Cooper are considered to be pin bracket of claim 7, this bushing/seat frame combination is not in

communication with the lever 70 of Cooper via a bracket pin, because the bushing 92 of Cooper is in direct communication with the lever 70. (Fig. 2 of Cooper.)

The Examiner's Answer attempts to improperly alter the rejection further by asserting, in the alternative, that the seat frame 42 of Cooper by itself (an assertion never even made in the 5/25/2007 Office Action) can be considered to be the pin bracket of claim 7. However, the seat frame 42 is part of the seat itself, and not a pin bracket.

Because the bushing 92 is not in communication with the lever 70 via the support pin 46, the bushing 92, alone or in combination with the seat frame 42, cannot be interpreted to be the pin bracket of claim 7. Also, because the seat frame 42 is part of the seat itself, the seat frame cannot be interpreted to be the pin bracket of claim 7. No other element of Cooper can be interpreted to be the pin bracket of claim 7. Because Cooper does not teach or suggest the pin bracket of claim 7, the rejection should be withdrawn.

II. Cooper does not teach or suggest all the features of claim 1

Claim 1 recites, among other things, "a resilient member supported by at least one support point" and "a load sensor supported by a sensor plate and a sensor support and in communication with the resilient member and positioned to receive the weight of the seat, wherein the sensor support is formed on an underside of the sensor plate." Cooper does not teach or suggest this combination of features.

In the rejection, the lever 70 of Cooper is improperly being considered to be the resilient member and the sensor plate, which are two distinct elements. The Examiner's Answer states that "[t]here is no language in the claims that precludes the sensor plate from being integral with the resilient member." (Paragraph 24 of the Examiner's Answer.) The Examiner's Answer asserts that a "portion" of the lever 70 of Cooper can be considered the sensor plate of claim 1 while, presumably, the rest of the lever 70 of Cooper can be considered the resilient member of claim 1. However, such an interpretation of the lever 70 as the sensor plate and resilient member of claim 1 simply attempts to use one element of Cooper (the lever 70) to satisfy two different elements of claim 1, i.e., the sensor plate and the resilient arm. The interpretation that the sensor plate and the resilient arm can be integrally formed into a single element is tantamount to reading one of the features out the claim, which runs contrary to the established principle that "[a] claim is anticipated only if each and every

element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987)." (See MPEP 2131.)

Because Cooper does not teach or suggest a resilient member and a sensor plate that are two distinct and separate elements, claim 1 is not anticipated by Cooper, and the rejection should be withdrawn.

III. Cooper, alone or in combination with Aoki '444 or Aoki '325, does not teach or suggest all the features of claims 2-6 and 8-13

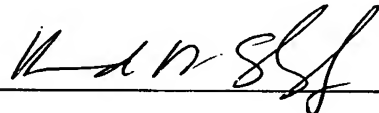
Claims 2-6 and 8-13 depend from and contain all the features of claim 1 or 7, and are allowable over Cooper for the reasons indicated above. Neither Aoki '444 and Aoki '325 cure the deficiencies of Cooper. Thus, claims 1-13 are allowable over the prior art.

IV. Conclusion

Applicant believes that the claims are allowable over the prior art, and withdrawal of the rejections is respectfully requested.

Respectfully submitted,

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